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HOUSE BILL 321

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO OIL AND GAS; PROVIDING FOR DISTRIBUTIONS TO THE OIL AND GAS RECLAMATION FUND; PROVIDING FOR AN OIL AND GAS CONSERVATION TAX RATE CONDITIONED ON THE BALANCE IN THE OIL AND GAS RECLAMATION FUND; PROVIDING FOR ENERGY EDUCATION AND FOR PETROLEUM RECOVERY RESEARCH; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.21 NMSA 1978 (being Laws 1985, Chapter 65, Section 7, as amended) is amended to read:

"7-1-6.21. DISTRIBUTION TO OIL AND GAS RECLAMATION FUND. --

A. With respect to any period for which the rate of the tax imposed by Section 7-30-4 NMSA 1978 is [~~nineteen-one-hundredths of one~~] nineteen-hundredths percent, a distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be made to the oil

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1 and gas reclamation fund in the amount equal to [~~one-~~  
2 ~~nineteenth~~] three-nineteenths of the net receipts attributable  
3 to the tax imposed under the Oil and Gas Conservation Tax Act.

4 B. With respect to any period for which the rate of  
5 the tax imposed by Section 7-30-4 NMSA 1978 is eighteen-  
6 hundredths percent, a distribution pursuant to Section 7-1-6.20  
7 NMSA 1978 shall be made to the oil and gas reclamation fund in  
8 the amount equal to one-ninth of the net receipts attributable  
9 to the tax imposed under the Oil and Gas Conservation Tax Act. "

10 Section 2. Section 7-30-4 NMSA 1978 (being Laws 1959,  
11 Chapter 53, Section 4, as amended) is amended to read:

12 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED  
13 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--  
14 INDIAN LIABILITY.--

15 A. There is levied and shall be collected by the  
16 department a tax on all products that are severed and sold.  
17 Except as provided in Subsections B and C of this section, the  
18 measure and rate of the tax shall be [nineteen-one-hundredths  
19 of one] nineteen-hundredths percent of the taxable value of  
20 sold products. Every interest owner shall be liable for this  
21 tax to the extent of the owner's interest in the value of  
22 [such] the products or to the extent of the owner's interest as  
23 may be measured by the value of [such] the products. [Any] An  
24 Indian tribe, Indian pueblo or Indian shall be liable for this  
25 tax to the extent authorized or permitted by law.

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1           B. In the event the unencumbered balance in the oil  
2 and gas reclamation fund equals or exceeds [~~one million dollars~~  
3 ~~(\$1,000,000)~~] one million three hundred fifty thousand dollars  
4 (\$1,350,000) for any one-month period computed after receipt of  
5 the tax for that month, [~~then~~] the rate of the tax levied by  
6 this section shall be [~~eighteen one-hundredths of one~~]  
7 eighteen-hundredths percent beginning with the first day of the  
8 second month following the month in which the unencumbered  
9 balance equaled or exceeded [~~one million dollars (\$1,000,000)~~  
10 ~~and no funds collected by the tax with respect to any period~~  
11 ~~for which the rate is eighteen one-hundredths of one percent~~  
12 ~~shall be distributed to the oil and gas reclamation fund]~~ one  
13 million three hundred fifty thousand dollars (\$1,350,000).

14           C. After having been reduced to [~~eighteen one-~~  
15 ~~hundredths of one~~] eighteen-hundredths percent, the rate of the  
16 tax imposed by this section shall remain at that rate until the  
17 unencumbered balance in the oil and gas reclamation fund is  
18 less than or equal to five hundred thousand dollars (\$500,000)  
19 for any one-month period computed after receipt of the tax for  
20 that month, in which event the rate of the tax levied by this  
21 section shall be increased to [~~nineteen one-hundredths of one~~]  
22 nineteen-hundredths percent beginning with the first day of the  
23 second month following the month in which the unencumbered  
24 balance equaled or was less than five hundred thousand dollars  
25 (\$500,000). [~~and the additional funds with respect to any~~

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1 ~~period for which the rate is nineteen one hundredths of one~~  
2 ~~percent shall be distributed to the oil and gas reclamation~~  
3 ~~fund in accordance with the provisions of the Tax~~  
4 ~~Administration Act.~~

5 ~~C.]~~ D. The department shall notify taxpayers of any  
6 change in the rate of tax imposed by this section. "

7 Section 3. Section 70-2-38 NMSA 1978 (being Laws 1977,  
8 Chapter 237, Section 5, as amended) is amended to read:

9 "70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--  
10 PLUGGING WELLS ON FEDERAL LAND-- RIGHT OF INDEMNIFICATION--  
11 ANNUAL REPORT-- CONTRACTORS SELLING EQUIPMENT FOR SALVAGE. --

12 A. The oil and gas reclamation fund shall be  
13 administered by the oil conservation division of the energy,  
14 minerals and natural resources department. Expenditures from  
15 the fund may be used by the director of the division for the  
16 ~~[purpose]~~ purposes of:

17 (1) employing the necessary personnel to survey  
18 abandoned wells, well sites and associated production  
19 facilities and ~~[to prepare]~~ preparing plans for the plugging of  
20 abandoned wells that have not been plugged or that have been  
21 improperly plugged and for the restoration and remediation of  
22 abandoned well sites and associated production facilities that  
23 have not been properly restored and remediated;

24 (2) supporting energy education throughout the  
25 state in an amount not to exceed one hundred fifty thousand

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1 dollars (\$150,000) annually; and  
2 (3) providing support to the New Mexico  
3 institute of mining and technology petroleum recovery research  
4 center or similar New Mexico schools or national research  
5 facilities located in New Mexico, for research related to oil  
6 and gas recovery in an amount not to exceed two hundred  
7 thousand dollars (\$200,000) annually.

8 B. The director of the oil conservation division of  
9 the energy, minerals and natural resources department, as funds  
10 become available in the oil and gas reclamation fund, shall  
11 reclaim and properly plug all abandoned wells and shall restore  
12 and remediate abandoned well sites and associated production  
13 facilities in accordance with the provisions of the Oil and Gas  
14 Act and the rules and regulations promulgated pursuant to that  
15 act. The division may order wells plugged and well sites and  
16 associated production facilities restored and remediated on  
17 federal lands on which there are no bonds running to the  
18 benefit of the state in the same manner and in accordance with  
19 the same procedure as with wells drilled on state and fee land,  
20 including ~~utilizing~~ using funds from the oil and gas  
21 reclamation fund to pay the cost of plugging. When the costs  
22 of plugging a well drilled on federal mineral leases or  
23 restoring and remediating well sites and associated production  
24 facilities are paid from the oil and gas reclamation fund, the  
25 division is authorized to bring a suit against the operator or

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1 district court of the county in which the well is located for  
2 indemnification for all costs incurred by the division in  
3 plugging the well or restoring and remediating the well site  
4 and associated production facilities. Any funds collected  
5 pursuant to a judgment in a suit for indemnification brought  
6 under the Oil and Gas Act shall be deposited in the oil and gas  
7 reclamation fund.

8 ~~[B.]~~ C. The director of the oil conservation division  
9 of the energy, minerals and natural resources department shall  
10 make an annual report to the secretary of energy, minerals and  
11 natural resources, the governor and the legislature on the use  
12 of the oil and gas reclamation fund.

13 ~~[C. All contracts for well plugging]~~ D. Contracts  
14 for plugging, reclamation and energy education pursuant to this  
15 section shall be entered into in accordance with the provisions  
16 of the Procurement Code. ~~[Any]~~ A contractor employed by the  
17 oil conservation division of the energy, minerals and natural  
18 resources department to plug a well is authorized to sell for  
19 salvage the equipment and material that is removed from the  
20 well in plugging it."

21 Section 4. EFFECTIVE DATE. --The effective date of the  
22 provisions of this act is July 1, 2003.